

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

JEANNA NORRIS, on behalf of herself)	
and all others similarly situated,)	
)	
Plaintiffs,)	Case No. 1:21-cv-00756
)	
vs.)	
)	
PRESIDENT SAMUEL L. STANLEY, JR.,)	
in his official capacity as President of)	
Michigan State University; DIANNE)	
BYRUM, In her official capacity as Chair)	
of the Board of Trustees, DAN KELLY,)	
in his official capacity as Vice Chair)	
of the Board of Trustees; and RENEE)	
JEFFERSON, PAT O'KEEFE,)	
BRIANNA T. SCOTT, KELLY TEBAY,)	
and REMA VASSAR in their official)	
capacities as Members of the Board of)	
Trustees,)	
)	
Defendants.)	

DEFENDANTS' RESPONSE TO MOTION FOR ALTERNATIVE FORMS OF RELIEF

On September 15, 2021, Plaintiff filed with her Reply in Support of Motion for Preliminary Injunction a second declaration from Dr. Hooman Noorchashm. ECF No. 11-3. On September 20, in advance of the hearing scheduled for September 22, Defendants submitted evidence to the Court in the form of a Rebuttal Declaration of Dr. Marcus Zervos. ECF No. 17. This Rebuttal Declaration addresses Dr. Noorchashm's second declaration, which was not available to Defendants at the time they filed Dr. Zervos's first declaration with their Response in Opposition to Plaintiff's Motion for Preliminary Injunction on September 10. ECF No. 9-1.

Rather than wait to adduce the testimony contained in Dr. Zervos's Rebuttal Declaration at the hearing, Defendants submitted the declaration before the hearing so that the Court and Plaintiff could review it in advance. Defendants' intent, in other words, was to ensure Plaintiff

had fair notice of the evidence Defendants intended to use at the hearing. Defendants did not file the Rebuttal Declaration to gain a strategic advantage over Plaintiff, to avoid introducing evidence at the hearing, or for any other nefarious reason Plaintiff posits in her motion. ECF No. 22-1.

At this point, any claimed prejudice from Dr. Zervos's Rebuttal Declaration has been remedied. Dr. Noorchasm has submitted a Reply Declaration (ECF No. 22-3), to which Defendants do not object, and Plaintiff's counsel cross-examined Dr. Zervos at the preliminary injunction hearing. ECF No. 24.

Defendants respectfully request that Plaintiff's Motion for Alternative Relief be denied to the extent it seeks to strike Dr. Zervos's Rebuttal Declaration (ECF No. 17).

Date: September 23, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2021, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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/s/ Anne K. Ricchiuto